



Paper No. 9

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DEC 01 2003

OFFICE OF PETITIONS

In re Application of
Park
Application No. 09/882,361
Filed: June 15, 2001
Attorney Docket No. 140 - 030
For: MEANS AND METHOD FOR GUIDING
IONS IN A MASS SPECTROMETER

ON PETITION

This is a decision on the petition, filed November 17, 2003, to revive the above-identified application. The petition is not accompanied by a petition fee; thus, the petition can only be treated as a feeless petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed on June 15, 2001. On August 17, 2001, the Office mailed petitioner a Notice to File Missing Parts of Nonprovisional Application, which required petitioner to submit the basic filing fee, additional claim fees, an executed oath/declaration, a surcharge for filing a late oath/declaration and filing fees, and substitute drawings in compliance with 37 CFR 1.84. Petitioner was given an extendable two month period of time to reply.

The Office contended that this application became abandoned on October 18, 2001 because no reply to the August 17, 2001 Notice was received. The Office of Initial Patent Examination mailed petitioner a Notice of Abandonment on November 10, 2003.

Petitioner promptly filed the instant petition on November 17, 2003. Petitioner argues that a reply was timely filed on certificate of mailing date October 17, 2001. The copy of the transmittal letter submitted with the instant petition lists a power of attorney, a declaration, an assignment, an IDS, and a check for \$1,396 as being mailed on October 17, 2001. A properly completed certificate of mailing listing October 17, 2001 as the date of deposit in first class mail with the USPS is affixed to the transmittal letter. In addition, petitioner has provided a copy of his itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing March 5, 2002 as the date of receipt. The return postcard constitutes *prima facie* evidence that the items listed on the postcard were received on March 5, 2002. MPEP 503.

A review of the application file reveals that the items listed on the transmittal letter and the postcard receipt are present.

Thus, petitioner's October 17, 2001 reply was timely filed.

HOWEVER, the above-identified application became abandoned for failure to **properly** respond to the August 17, 2001 Notice. The reply did not satisfy the requirements set in the August 17, 2001 Notice. Petitioner did not submit substitute drawings in compliance with 37 CFR 1.84. This is the cause of abandonment. Petitioner has provided no evidence to show that substitute drawings in compliance with 37 CFR 1.84 were timely filed.

Petitioner is urged to file a petition to revive under the unavoidable standard of 37 CFR 1.137(a) or the unintentional standard of 37 CFR 1.137(b) promptly. The required reply must be substitute drawings in compliance with 37 CFR 1.84.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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Alexandria, VA 22313-1450

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Telephone inquiries pertaining to these matters may be addressed to the undersigned at (703) 308-6712.



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